

EXHIBIT A

From: Edward T. Saadi <edward@saadilaw.com>
Sent: Monday, July 29, 2024 8:09 PM
To: Lackman, Eleanor <eml@msk.com>
Subject: RE: [EXTERNAL] Intuitive Imaging v. Intuitive Surgical - Amended Complaint

Hi Eleanor—

We've been emailing about this since July 19th, and I described the proposed amendment in that first email. I've provided the proposed amended complaint in multiple formats. We've already had our meet and confer. Since today is plaintiff's deadline to file the motion to amend, we filed it, and have noted that as of this date the defendants do not agree to the relief requested. However, I'm happy to meet and confer again if you think it may bring consent to the amendment, and then we can supplement the motion if necessary. I'm free either one of the times you have mentioned. I continue to believe that the best course of action is to amend the complaint and then re-file the MJOP. Thanks.

ETS

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From: Lackman, Eleanor <eml@msk.com>
Sent: Monday, July 29, 2024 4:11 PM
To: 'Edward T. Saadi' <edward@saadilaw.com>
Subject: RE: [EXTERNAL] Intuitive Imaging v. Intuitive Surgical - Amended Complaint

Thanks, Edward. We will need to have our L.R. 7-3 conference to go over some of these items. I can't do today and am on a plane all day PT tomorrow, and I need some information about the Orpheus

entities (I wasn't aware that there were going to be two, or which you planned to pull in) before we speak anyway.

I'm open Wednesday between 1:30 and 5, assuming I can get my information by then, or anytime on Thursday after 8:30 a.m. Let me know if any of that works for you.

Regards,
Eleanor



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Co-Chair, Intellectual Property Group

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From: Edward T. Saadi <edward@saadilaw.com>

Sent: Sunday, July 28, 2024 10:38 PM

To: Lackman, Eleanor <eml@msk.com>

Subject: RE: [EXTERNAL] Intuitive Imaging v. Intuitive Surgical - Amended Complaint

See attached.

ETS/kkc

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From: Lackman, Eleanor <eml@msk.com>
Sent: Friday, July 26, 2024 8:24 PM
To: 'Edward T. Saadi' <edward@saadilaw.com>
Subject: RE: [EXTERNAL] Intuitive Imaging v. Intuitive Surgical - Amended Complaint

Edward,

You knew what you were doing. Delay, delay, delay. Never again.

You did not send me a redline. I either need both versions in Word or a redline. You know I can't run a comparison against two PDFs. I will review once I have a true comparison.

Regards,
Eleanor



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From: Edward T. Saadi <edward@saadilaw.com>
Sent: Friday, July 26, 2024 5:41 PM
To: Lackman, Eleanor <eml@msk.com>
Subject: RE: [EXTERNAL] Intuitive Imaging v. Intuitive Surgical - Amended Complaint

Eleanor—

There's no trickery going on here. The opposition due date moves automatically when the hearing date moves.

In any case, our proposed Amended Complaint is attached. I think the filing of any amended complaint moots the MJOP because it targets the original complaint, which will no longer be operative—especially when new parties and a new cause of action are added.

Just seeking efficiency and avoidance of unnecessary hearings.

ETS

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From: Lackman, Eleanor <eml@msk.com>
Sent: Monday, July 22, 2024 8:55 PM
To: 'Edward T. Saadi' <edward@saadilaw.com>
Subject: RE: [EXTERNAL] Intuitive Imaging v. Intuitive Surgical - Amended Complaint

Hi Edward,

You asked to move the hearing date to accommodate a vacation that conflicted with the August 12 hearing date, not get two extra weeks with our brief for review while leaving us with the same single week for response. I made this very clear and suppose I didn't notice that you didn't note in the stipulation that the briefing schedule would stay the same. Suffice it to say that this will not happen again on my watch.

I also mentioned to you the inconvenience to me of moving the hearing date due to my own summer travel plans. Doing so actually cost me money (non-refundable) and time (also non-refundable). So this coming up now certainly seems a little "bold," to use your terms.

Even putting all of that aside, I cannot opine on a complaint I haven't seen. It sounds like it will be

identical except for the addition of an Israeli-based entity that Intuitive acquired two years ago, and certainly could have been included when the complaint was filed. Will you be amending to add yet another party if we withdraw the motion and then incur the cost to refile?

It seems to me that in that case, the motion for judgment on the pleadings should be decided first, as your proposed amended complaint sounds like it is only going to underscore one of our identified issues (shotgun pleading) rather than moot any of those issues. If you send me a proposed amended complaint that resolves the shotgun pleading, laches/statute of limitations, and other issues, then we consider looking at a different/streamlined motion for judgment on the pleadings, but right now, based on your description, it sounds to me like you're just trying to stall. You got your extra two weeks of briefing. Don't push your luck further.

We'll keep an eye out for your proposed amended complaint that you say will moot the motion; for now, as I said to you on Friday, I can't agree to anything based on something I haven't seen.

Regards,
Eleanor

From: Edward T. Saadi <edward@saadilaw.com>

Sent: Monday, July 22, 2024 4:41 PM

To: Lackman, Eleanor <eml@msk.com>

Subject: RE: [EXTERNAL] Intuitive Imaging v. Intuitive Surgical - Amended Complaint

Hi Eleanor—

The proposed Amended Complaint isn't complete yet but I'll send it to you soon, hopefully tomorrow. Our opposition to the MJOP is due on August 5th. Regarding the timing of the motion to amend, I think I'm good under the CDCA local rules as long as I file it by July 29th.

If I could be so bold, maybe the easiest thing is to stipulate to (1) an amendment of the complaint (because leave will almost certainly be granted), and (2) a withdrawal of the MJOP (without prejudice, of course) to be re-filed after service of the amended complaint. I'm thinking the MJOP will be mooted by the filing of the amended complaint and this is basically how it will play out anyway; but this way we would both be spared unnecessary motion hearings.

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From: Lackman, Eleanor <eml@msk.com>
Sent: Friday, July 19, 2024 8:20 PM
To: 'Edward T. Saadi' <edward@saadilaw.com>
Subject: RE: [EXTERNAL] Intuitive Imaging v. Intuitive Surgical - Amended Complaint

Hi Edward,

I always understood that the only confusion theory alleged in this action is reverse confusion, but can you please send me the proposed amendment so that my client and I can see what the allegations are regarding the claim, and regarding a party that I believe does business under a name that doesn't include Intuitive? I can review in conjunction with your opposition papers that are coming in on Monday, which should give me a better sense of the related group pleading issue and should allow me to get back to you with a position promptly.

I'll also need to check on the timing under the court's schedule. It doesn't seem that there would be enough of a window for motion practice under Judge Fischer's rules, but I confess I haven't yet done the math on a Friday evening. We can work that out early next week once I have your proposed amendment and opposition papers.

Regards,
Eleanor



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From: Edward T. Saadi <edward@saadilaw.com>
Sent: Friday, July 19, 2024 6:31 PM
To: Lackman, Eleanor <eml@msk.com>
Subject: [EXTERNAL] Intuitive Imaging v. Intuitive Surgical - Amended Complaint

Hello Eleanor,

I hope you're well.

We intend to seek leave of Court to file an amended complaint adding a claim for relief for reverse confusion, and also adding Orpheus Medical as a defendant.

In my experience, leave to amend is granted liberally when timely requested pursuant to the Court's case schedule. Please advise whether you intend oppose the filing of an amended complaint; if not, we can file it as an unopposed motion. If you do oppose, we will set the hearing on August 26th for counsel's convenience.

Thank you.

ETS

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